



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt Resolution Regarding City Vote on Property Assessment Ballot for City Property within the Central Delta Water Agency

MEETING DATE: August 3, 2005

PREPARED BY: Public Works Director

RECOMMENDED ACTION: That the City Council adopt a resolution regarding City vote on property assessment ballot for City property within the Central Delta Water Agency. Staff recommends a "No" vote.

BACKGROUND INFORMATION: The Central Delta Water Agency is conducting a "Public Hearing and Assessment Ballot Proceeding" to increase the District's property assessment from a maximum of \$5.00 per acre to \$8.00 per acre. The City's property at White Slough is within the District boundaries and is subject to the assessment. If approved, the annual cost to the City would increase from approximately \$5,000 to \$8,118.34; however, as a property owner, the City has the opportunity to vote on the assessment. The City's property assessment represents 0.9% of the total.

The Agency engages in legal and lobbying work on behalf of properties and districts within its boundaries. Background material provided by the District supporting the proposal is attached.

The City's options are to:

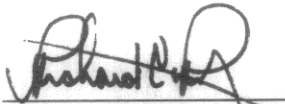
- 1) Vote "Yes"
- 2) Vote "No"
- 3) Cast no ballot

Casting no ballot is essentially taking a neutral position.

While the amount of money is not large in comparison to the wastewater budget, staff has difficulty associating the assessment with benefit to the citizens of Lodi.

FISCAL IMPACT: The White Slough budget included only \$5,500 for this item.

FUNDING AVAILABLE: Wastewater Fund



Richard C. Prima, Jr.
Public Works Director

RCP/pmf
Attachment
cc: Del Kerlin, Assistant Wastewater Treatment Superintendent

APPROVED: 

Blair King, City Manager



CENTRAL DELTA WATER AGENCY

235 East Weber Avenue • P.O. Box 1461 • Stockton, CA 95201
Phone 209/465-5883 • Fax 209/465-3956

DIRECTORS

*George Biagi, Jr.
Rudy Mussi
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COUNSEL

*Dante John Nomellini
Dante John Nomellini, Jr.
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June 21, 2005

NOTICE OF PUBLIC HEARING AND ASSESSMENT BALLOT PROCEEDING TO SET MAXIMUM ASSESSMENT RATE AND ASSESSMENT RATE FOR FISCAL YEAR 2005-2006 AND NOTICE OF PUBLIC MEETING

Dear Landowner:

The Board of Directors of the Central Delta Water Agency will hold a hearing on Tuesday, August 9, 2005, at 9:30 a.m. at 235 East Weber Avenue, Stockton, California, for the purpose of considering protests, tabulating assessment ballots and otherwise considering adoption of a new maximum assessment rate for future years and the assessment rate for fiscal year 2005-2006.

A public meeting (workshop) will be held on Tuesday, July 12, 2005, at 9:30 a.m. at 235 East Weber Avenue, Stockton, California, for the purpose of discussion and comment relating to the proposed assessment rate and assessment.

In August of 1998, the Central Delta Water Agency landowners approved an increase in the maximum annual assessment rate from \$3.00 per acre to the current maximum of \$5.00 per acre with a minimum of \$1.00 per parcel. The current \$5.00 per acre rate generates about \$580,000.00 per year. The proposal before you is to increase the maximum annual assessment rate to \$8.00 per acre with a minimum of \$2.00 per parcel. The proposed maximum rate could generate about \$922,000.00 per year. The amount chargeable to each of your parcels is set forth on the enclosed Official Ballot. The proposed maximum annual rate would remain in effect indefinitely. The Board of Directors could set the annual assessment at or below the maximum rate each year.

The proposed increased assessment is for the purpose of sustaining and increasing the level of activity to try to protect your water, water rights, drainage, levee and flood-related interests. The basis of the proposed increased assessment is the acreage of each parcel as shown on the San Joaquin County Assessor's Roll with some adjustments related to land use. The past assessments of the Agency have been based solely on acreage. The basis of assessment has been reviewed and is supported by the report prepared by Christopher H. Neudeck, Registered Civil

Engineer. The report can be inspected at the Agency office or a copy can be provided pursuant to your written request.

BALLOT - Landowner Approval

The maximum rate of assessment and assessment will not be increased if there is a "majority protest" however, the existing maximum rate will remain in effect. Under Section 4 of Article XIII D of the California Constitution (Proposition 218), a majority protest exists if, upon conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment. The number of votes will be based on the dollar amount of the proposed assessment using the proposed maximum assessment rate of \$8.00 per acre with a minimum of \$2.00 per parcel as adjusted pursuant to the allocations in the Engineer's Report.

Enclosed is a Ballot, Instruction to Voters, and Proxy Form. The ballot may be returned by mail to the Central Delta Water Agency, c/o Kjeldsen, Sinnock & Neudeck, Inc., P. O. Box 844, Stockton, California 95201, in the enclosed self-addressed envelope, or hand delivered to 711 North Pershing Avenue, Stockton, California 95203. Ballots may also be submitted at the Assessment Ballot Hearing on August 9, 2005, at 235 East Weber Avenue, Stockton, California 95202. The hearing will commence at 9:30 a.m. but the close of the hearing will be determined at the hearing. To assure the counting of your ballot, you should return it by mail or hand deliver it well in advance of the hearing or be present at 9:30 a.m. on August 9, 2005. Ballots received after the close of the hearing will not be counted.

The ballots must be marked and the certification on the face of the ballot signed by the person casting the ballot. Landowners must comply with the requirements set forth in the attached Instruction to Voters.

If you have any questions relating to the above, you may contact Mike Conrad or Christopher H. Neudeck of Kjeldsen, Sinnock & Neudeck, Inc., telephone (209) 946-0268, facsimile (209) 946-0296, or you may contact our office at (209) 465-5883, facsimile (209) 465-3956.

Yours very truly,



DANTE JOHN NOMEILLINI
Manager and Co-Counsel

DJN:ju
Enclosures



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INSTRUCTIONS TO VOTERS

ASSESSMENT BALLOT PROCEEDING

CENTRAL DELTA WATER AGENCY

August 9, 2005

QUALIFICATIONS OF VOTERS

Each landowner (holder of title) or the legal representative of the landowner in the Agency shall be entitled to cast one vote for each dollar of the proposed assessment based on the proposed maximum rate of assessment of \$8.00 per acre with a minimum of \$2.00 per parcel. Depending upon the land use grouping assigned in the Engineer's Report, the maximum for some parcels will be \$7.60 per acre or \$6.40 per acre.

NUMBER OF VOTES ENTITLED TO CAST

The number of votes which the voter is entitled to cast is marked on each ballot.

VOTER CERTIFICATION

The individual(s) casting the ballot must sign the certification on the face of the ballot and submit the ballot and the other required information. If the ballot includes parcels which are no longer owned by the voter, then the ballot including the total number of votes should be corrected. All corrections should be initialed. If the voter desires to have a new ballot, please contact the Central Delta Water Agency office.

If you no longer own the parcel or parcels listed on your ballot, please promptly notify us so that the ballot or a corrected ballot can be provided to the new owner.

MARKING THE BALLOT

The number of votes you are entitled to cast is written on the ballot. Mark an "X" in the square "Yes" or in square marked "No".

VOTING BY PROXY

Landowner's votes cast by proxy will be accepted as valid only if such proxy meets all of the following requirements:

- (a) must be in writing and on the proxy form (or a reproduction thereof) which accompanies the official ballot.
- (b) must be executed by the landowner or legal representative of the landowner who is entitled to cast the votes for which the proxy is given.
- (c) must be acknowledged.
- (d) must specify the election at which the proxy is to be used.

Any proxy may be revoked at the pleasure of the person executing such proxy at any time before the person appointed as proxy shall have cast a ballot representing the votes for which the appointment was given.

JOINT TENANCY--CO-TENANCY

When a parcel is held as community property, joint tenancy, or as a tenancy in common, any spouse, joint tenant, or tenant in common shall be presumed to have authority to cast all votes for that parcel.

PARTNERSHIPS AND LIMITED LIABILITY COMPANIES

Where the title to a parcel stands in the name of a partnership or limited liability company, one ballot must be used to vote all of the votes for the parcel. The person voting must be a general partner of the partnership or designated as the managing partner for the limited liability company; or be authorized to vote by way of a proxy from the general partner or designated managing partner.

ESTATES, GUARDIANSHIPS AND CONSERVATORSHIPS

Guardians, executors, conservators and administrators shall be presumed to have authority to vote without obtaining special authority to vote.

TRUSTS

When title to a parcel stands in the name of a trustee or is otherwise held by a trust, the trustee or trustees shall be presumed to have authority to cast votes for that parcel.

CORPORATION, ASSOCIATION OR FOUNDATION

When title to a parcel stands in the name of a corporation, association or foundation, any officer thereof shall be presumed to have authority to cast votes for that parcel.

LIFE ESTATES

A life tenant may cast all votes for a parcel without obtaining a proxy from the holders of the remainder interest.

DISPUTES RELATED TO BALLOTS

In the event that more than one of the record owners of an identified parcel submits an assessment ballot, the amount of the proposed assessment (votes) for the identified parcel shall be allocated to each ballot submitted in proportion to the respective record ownership interests or, if the ownership interests are not shown on the record, as established to the satisfaction of the Agency by documentation provided by those record owners.

The Agency may request documentation to support the authority of any voter to cast the votes for any parcel.

Disputes which will not affect the outcome of the balloting will be left unresolved.

SIGN AND DATE BALLOT DECLARATION

The declaration on the ballot must be signed and dated.

RETURN OF BALLOT

Mail the ballot in the enclosed envelope to Central Delta Water Agency, c/o Kjeldsen, Sinnock & Neudeck, Inc., P. O. Box 844, Stockton, California 95201 or hand deliver to 711 North Pershing Avenue, Stockton, California 95203. Ballots may also be submitted at the Assessment Ballot Hearing. Ballots must be received prior to the close of the Assessment Ballot Hearing which is to commence at 9:30 a.m., August 9, 2005, at 235 East Weber Avenue, Stockton, California 95202.

If you have any questions regarding the enclosed, please contact Mike Conrad at Kjeldsen, Sinnock & Neudeck, Inc., 711 North Pershing, Stockton, CA 95203, telephone: (209) 946-0268, or Dante John Nomellini at the office of the Agency, 235 East Weber Avenue, Stockton, CA, telephone: (209) 465-5883.

VOTING PROXY

**ASSESSMENT BALLOT PROCEEDING
CENTRAL DELTA WATER AGENCY**

AUGUST 9, 2005

The undersigned, a landowner or legal representative of a landowner in the Central Delta Water Agency, in the County of San Joaquin, State of California, does hereby constitute and appoint

the proxy of the undersigned to cast all votes for all parcels for which the undersigned is authorized to vote in the above Assessment Ballot Proceeding.

Dated: _____

(signature)

(signature)

(signature)

(signature)

ACKNOWLEDGMENT BY NOTARY

STATE OF CALIFORNIA
COUNTY OF _____

On _____ before me, _____ personally appeared _____, personally known to me (or proved on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed in the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

Witness my hand and official seal.



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JUNE 15, 2005

STATUS REPORT

The Central Delta Water Agency will on June 30, 2005, end the current fiscal year with a deficit of approximately \$70,000.00. Additionally, due to the method of allocation of assessment revenue by the County Treasurer, dry period warrant sales will be required to meet cash flow requirements for June and July in excess of the deficit.

The current \$5.00 per acre maximum rate with a minimum of \$1.00 per parcel generates approximately \$580,000.00 of annual revenue. Since August of 1998, the date of the last approval of an increase in the maximum assessment rate, the Agency has levied assessments as follows:

1998-1999	\$5.00 per acre
1999-2000	\$5.00 per acre
2000-2001	\$5.00 per acre
2001-2002	\$5.00 per acre
2002-2003	\$4.00 per acre
2003-2004	\$5.00 per acre
2004-2005	\$5.00 per acre

The maximum assessment rate proposed for your approval is \$8.00 per acre with a minimum of \$1.00 per parcel. It could generate approximately \$922,000.00 of annual revenue. The Board of Directors would set the rate at or below the maximum depending on the challenges facing the Agency.

The activity level varies somewhat from year to year however, without additional funds the Agency will be required to curtail some ongoing activities and will not be able to increase activity as necessary to meet new challenges. A summary of the current major activities of the Agency is as follows:

Defense Against State Water Resources Control Board and San Joaquin River Group Challenge to Delta Water Diversions (Term 91)

The State Water Resources Control Board supported by the San Joaquin River Group (Modesto Irrigation District, Turlock Irrigation District, South San Joaquin Irrigation District, San Joaquin River Exchange Contractors Water Authority, Merced Irrigation District, Oakdale Irrigation District, Friant Water Users Authority and City and County of San Francisco) have levied fines on three (3) (originally four [4]) farmers on Upper Roberts Island for illegal water diversions. The largest fine was \$45,000.00 based on doubling the penalty presented by the staff. The underlying contention by the SWRCB is that the lands in question lost their riparian rights because they do not now abut the present river channels. Although the lands were originally connected to the river channels as a part of larger parcels or connected by way of historical sloughs which have now been filled, the SWRCB found that the evidence of intent to preserve the riparian right and the evidence of pre-1914 water use were inadequate. These diverters had filed for appropriative water rights in the 1960's to backstop their riparian and pre-1914 water rights. The permits were not issued until the 1980's and the SWRCB inserted a condition in the permits which is referred to as Term 91. This term requires that diverters stop diverting from the channels or buy water when the SWP and CVP are releasing water from storage beyond what they consider to be water entitlements. This means in roughly 17 out of 20 years the diversions are not allowed after June 15th. The farmers who elected to buy water after June 15th for their alfalfa had to pay \$90.00 to \$115.00 per acre foot. The SWRCB would not allow evidence to show that the reason for project releases as early as June 15 is due to the actions of the projects themselves such as degradation of the San Joaquin River, storage of spring and early summer natural flows which would have flushed the Delta pool, project induced upstream diversions, dredging of the lower Sacramento and San Joaquin Rivers (including construction of ship channels), operation of the export pumps which reverse flows and induce salinity intrusion, approval of water transfers and other changes which shift return flows from late summer to spring and other actions. The SWRCB contended that the Term 91 inconsistency with the Delta Protection Act and Watershed of Origin law could not be raised in the proceedings since the diverters did not challenge the Term 91 condition in the 1980's at the time of its insertion in the permits. Because of the important precedents involved in the matter, the Agency and the South Delta Water Agency are providing legal support for the diverters. A suit challenging the SWRCB decision has been filed in Sacramento Superior Court and a hearing is tentatively set for the end of August. Appeals to the higher courts are a certainty.

Fight Against Peripheral Canal

The desire of export interests to take greater quantities of northern California water through a canal which isolates the exported water from the Delta pool continues. The flooding of Upper Jones Tract and Lower Jones Tract has provided a platform for the isolated canal advocates. Some contend that the risk that Delta levee breaks will significantly affect water exports is too great but ignore the other risks to hundreds of miles of canals and pipelines such as earthquakes, terrorism or the like. Also ignored is the huge loss of fresh water due to evaporation

from flooded islands, the loss of highways and utilities, the resulting inability to control salinity in Suisun Marsh, the impact on groundwater quality, the seepage impact on surrounding levees and lands including highly developed areas and the impacts on fish and wildlife. One of the solutions being advocated is to let islands stay flooded (like Frank's Tract and Mildred Island) after a levee break.

DWR is undertaking a 6 million dollar restudy of the Delta levee-related issues including the isolated canal. This appears to be repeat of processes undertaken multiple times in the past. A greater demand of Agency time and effort on this subject will surely be required.

Challenge to CALFED Actions

The Agency has and continues to provide input to the CALFED process. The practical control of CALFED is in the hands of the State Water Project export contractors who wield great influence over the Department of Water Resources which operates the State Water Project for their benefit. The practical control of the federal side is in the hands of the federal export contractors along the west side of the San Joaquin Valley who have the ear of both the U. S. Bureau of Reclamation and Department of Interior. The CALFED record of decision is heavily directed towards increasing exports of water from the Delta without recognition of the statutory priorities and protections for the Delta in the Delta Protection Act, Watershed of Origin Act and San Joaquin River Act. The Central Delta Water Agency and South Delta Water Agency along with a number of other parties filed suit in Sacramento Superior Court challenging the CALFED Record of Decision and various related actions of CALFED officials. The related actions included those which wrongfully relieve the SWP and CVP of their obligations to mitigate their own damages to fish, wildlife and the environment, and wrongfully allow profiteering from the public on the State issued appropriative rights to use the public's water. The Superior Court ruled against the Agency on the challenges to the Record of Decision and would not allow the related taxpayer causes of action to proceed. The matter was appealed to the California Court of Appeals for the Third District. The matter is fully briefed and awaiting a date for oral argument. Depending on the outcome of the appeal, discovery and trial on the merits of a number of causes of action will be necessary. This case is coordinated with the California Farm Bureau (Laub) case also challenging the CALFED Record of Decision on more limited grounds.

Challenge to State Water Resources Control Board (SWRCB) D-1641

The Agency participated in 82 days of hearing before the SWRCB. The hearing was divided into eight (8) phases. Phases 1 through 7 were completed and Phase 8 was deferred. The ultimate objective of the proceeding was to allocate some of the burden of meeting Delta water quality standards (including fish flows) on other water right holders without first requiring the SWP and CVP to mitigate their damages. The SWRCB with minor exceptions granted the California Department of Water Resources, the United States Bureau of Reclamation and their contractors everything they requested. Of major importance are the water right changes granted to the SWP and CVP to use each others facilities to maximize their ability to export water from

the Delta; the right granted to the CVP to in effect combine its water right permits and expand the authorized places of use and the rights granted to water districts along the tributaries of the San Joaquin for a twelve (12) year period to in effect shift late spring and summer return flows so as to guarantee an April 15 to May 15 so-called pulse flow for a fish experiment. The San Joaquin River Group Authority provides this guarantee in consideration of a four (4) million dollar a year payment. The Agency along with others filed suit in Sacramento Superior Court challenging the SWRCB Decision 1641. Thirteen (13) lawsuits eventually reduced to eleven (11) have been coordinated. The Superior Court ruled in favor of the State on most matters but granted judgment to the Agency on one of its causes of action involving the failure of the SWRCB to allocate the burden for meeting San Joaquin River flow standards during the April 15 to May 15 period. The Superior Court also granted judgment in favor of some landowners in the Westlands Water District relieving the USBR of the burden to mitigate for impacts related to the expansion of the place of use in the Westlands Water District. The Agency and a number of others appealed the Superior Court decision to the California Appellate Court for the Third District. Briefing is complete and the matter is awaiting a date for oral argument. A favorable ruling will result in a remand to the SWRCB requiring further proceedings.

CDWA vs. USA (CVPIA)

The U. S. Bureau of Reclamation has been draining water from New Melones Reservoir for fish restoration rather than cutting back export pumping or taking water from Delta exports. This results in insufficient water to meet the Delta water quality standards on the San Joaquin River in future dry years. The Agency challenged the Bureau's actions in Federal District Court for the Eastern District. The case was assigned to the Fresno branch. The District Court Judge dismissed the case on the basis that the standards were not currently being violated and that future harm was not actionable. The case was appealed and the United States Ninth Circuit Court of Appeals reversed the District Court decision and remanded the case for further proceedings. The District Court again ruled in favor of the Bureau and the case is now back on appeal to the Ninth Circuit. All briefs have been filed and the matter is awaiting a date for oral argument.

Opposition to Delta Wetlands Project

The Agency and others protested the water rights applications for the Delta Wetlands Project before the SWRCB. The SWRCB granted the water rights permits subject to various conditions, some of which were seriously inadequate. The SWRCB deferred to local government the need to protect against local impacts and basically ignored the impacts and public interest concerns associated with the use of the water from the project. The Agency along with San Joaquin County and a number of reclamation districts and landowners challenged the SWRCB decision in Sacramento Superior Court. The Superior Court ruled in favor of the SWRCB and Delta Wetlands Properties. An appeal was filed with the California Appellate Court for the Third District and the Appellate Court reversed the Superior Court. The SWRCB and Delta Wetlands Properties petitioned the California Supreme Court for review of the Appellate Court decision.

Their petition was supported by a large number of the water interests in California on the basis that more specific identification of the place and purpose of use would unduly restrict water transfers and water development. The Supreme Court denied the request and Delta Wetlands Properties must now reapply for a water rights permit setting forth a more specific purpose and place of use.

The Agency also worked with San Joaquin County in developing an ordinance requiring a use permit for water storage projects like the Delta Wetlands Project. The ordinance was challenged in San Joaquin County Superior Court by Delta Wetlands Properties. The Superior Court upheld the ordinance and Delta Wetlands Properties appealed to the California Appellate Court for the Third District. The Appellate Court denied the appeal and upheld the ordinance.

UOP Negotiations

The Agency along with the South Delta Water Agency engaged in extensive negotiations primarily with the Metropolitan Water District of Southern California, the Kern County Water Agency, Westlands Water District and San Luis Delta Mendota Authority as to a package of assurances which would be required for the Agency not to oppose the so-called NAPA accord which includes increasing export pumping from the Delta. The package included agreements, State and Federal legislation, permanent barriers with low-lift pumps for the south Delta, pumps to replace siphons in the vicinity of the export pumping facilities, improved water quality and water level standards, additional measuring points for the Delta area south of the San Joaquin river, and a stipulated judgment with a watermaster to control SWP and CVP Delta facilities and San Luis Reservoir. The negotiations broke down on the subject of assurances. MET wanted to make sure it had an "escape" mechanism, Kern County did not want the water in San Luis as a part of the assurance to meet Delta water quality standards including those for the San Joaquin River. Westlands wanted a low limit on the quantity of water that could be used from San Luis. The Agency position was and is that exports are to be limited to water which is surplus to the needs of the Delta and that meeting Delta water quality standards is a condition of the SWP and CVP water right permits including those for export of water from the Delta and those for diversion and re-diversion of water from San Luis Reservoir.

HR 2828

HR 2828 became PL 108-361 commonly referred to as the federal authorization for CALFED. As a condition for his support, Congressman Pombo required that San Joaquin County water interests including the Agency and the water export interests reach agreement on critical language in the bill. The most noteworthy provisions which are now law are:

- 1) "Prior to increasing export limits from the Delta for the purpose of conveying water to south-of-Delta Central Valley Project contractors or increasing deliveries through an intertie, the Secretary shall, not later than 1 year after the date of enactment of this Act, in consultation with the Governor, develop and initiate

implementation of a program to meet all existing water quality standards and objectives for which the Central Valley Project has responsibility.”

- 2) “The Secretary shall incorporate into the program a recirculation program to provide flow, reduce salinity concentrations in the San Joaquin River, and reduce the reliance on the New Melones Reservoir for meeting water quality and fishery flow objectives through the use of excess capacity in export pumping and conveyance facilities.”
- 3) “The Secretary shall develop and implement in coordination with the State’s programs to improve water quality in the San Joaquin River, a best management practices plan to reduce the water quality impacts of the discharges from wildlife refuges that receive water from the Federal Government and discharge salt or other constituents into the San Joaquin River.”

There is a large gap between law and implementation. The U.S. Bureau of Reclamation (USBR) and California Department of Water Resources (DWR) appear to be headed in the direction of circumventing the intent of the law by continuing to apply large quantities of New Melones water for CVPIA (b)(2) (fish restoration purposes) and by seeking to change or defer the existing water quality standards on the San Joaquin River rather than meet them. It is likely that litigation in both State and Federal courts will be necessary to try to secure compliance.

South Delta Improvement Program (SDIP)

DWR and the USBR are moving forward with what is called SDIP. The principal feature is increased export pumping at the State Water Project facilities which will be used in major part to deliver water to the federal CVP service areas which include farms and refuges on the west side of the San Joaquin River where the applied water directly or indirectly degrades the quality of the San Joaquin River. Without solid assurances that the present water quality standards will be met and adequate water levels or equivalent protection is provided, the SDIP will cause substantial damage to the central and south Delta. Obtaining such assurances is unlikely and legal action is probable.

Opposition to Reduction in Delta Water Quality Standards

The San Joaquin River Group which is comprised of Modesto Irrigation District, Turlock Irrigation District, South San Joaquin Irrigation District, San Joaquin River Exchange Contractors Water Authority, Merced Irrigation District, Oakdale Irrigation District, Friant Water Users Authority and City and County of San Francisco have requested that the water quality standard at Vernalis be reduced by the SWRCB from the current level of .7 EC (450 TDS) for April through August and 1.0 (640 TDS) for September through March to a year-round standard of 1.0 EC (640 TDS). Farmers know and the best available science supports the need for .7 EC irrigation water and even better quality for poorly drained soils. The objective for CVP exports

from the Delta is 400 ppm TDS or .625 EC. The Agency and the South Delta Water Agency are opposing the reduction in the standard.

SWRCB Late Triennial Review of 1895 Bay-Delta Water Quality Standards

The SWRCB has completed the workshops and is in the process of developing a preferred alternative which will be the subject of environmental review and subsequent hearings. Agency participation will be required.

DWR and USBR Delay of Implementation of Interior South Delta Water Quality Standards

DWR and USBR have requested the SWRCB to delay implementation of the .7 EC standard at Brandt Bridge (San Joaquin River upstream of Matthews Road), Old River at Middle River and Old River at Tracy Boulevard. They contend that they cannot meet the standards without permanent South Delta barriers however, Brandt Bridge standards are on the San Joaquin River and meeting such standards is not dependent upon barrier operations. Even for the other stations, it is not clear that operation of the existing temporary barriers combined with limitations on export pumping will not allow for meeting such standards. They additionally contend that meeting such standards may constitute an unreasonable use of water. The Agency, South Delta Water Agency, and the Contra Costa Water District have protested the DWR and USBR request. The Agency, South Delta Water Agency and San Joaquin County are preparing a complaint to be filed with the SWRCB alleging unreasonable use and unreasonable methods of diversion by DWR and USBR for a number of reasons including damage caused by operation of the export pumps, releases of water from New Melones to make up for fish losses caused by the export pumps, delivery of water to the west side of the San Joaquin Valley without a solution to the drainage problems and degradation of the San Joaquin River and delivery of water to build golf courses and lakes in the desert while at the same time not maintaining adequate water quality in the Delta and not honoring legal requirements to meet the water needs within the areas of origin.

Support for San Joaquin River Restoration

The Agency together with the South Delta Water Agency filed a friend of the court brief with the Federal District Court supporting restoration of the flow in the San Joaquin River. Flow of good quality water in the San Joaquin from Friant Dam will help improve water quality in the river and also relieve some of the burden on New Melones. This will help assure that water quality standards will be met in dry years and could provide more water for eastern San Joaquin County to help correct the overdraft in the groundwater basin. The Agency objective is to secure reasonable restoration without forcing a take of water away from farmers to grow crops. There is however a substantial block of water that is being banked, exchanged and/or transferred for profit. The water now being merchandised includes greater and greater use of the "surplus river flows" which should be allowed to flow down the river prior to transfer. By way of example, water to be transferred to southern California or exchanged to provide better water quality should be allowed to flow down the river before it is exported. Purchases and exchanges with willing

parties should also be considered. The Agency, the South Delta Water Agency and San Joaquin County are working for restoration of reasonable flow from Friant Dam to the Delta.

Flood Liability, Etc.

A total revamping of the State's flood control policies and programs is underway. The State's liability for flood losses arising out of the so-called Paterno case is fueling DWR's effort to shift this liability to local agencies and landowners and there are proposals to impose a State assessment on those in the Central Valley presumably landowners, to pay the State's costs. The issues are complex and very political. Greater Agency effort will be required.

Levee Program

The Delta Levee Subvention Program funding will run out as of June 30, 2006. Due to the current State budget conflict, future funding could not be secured. Another major effort will be made after the November special election.

Opposition to Sewage Sludge/Biosolids Disposal on Farmland

The Agency has engaged in two (2) sets of legal actions challenging the California Regional Water Quality Control Board and State Water Resources Control Board general waste discharge orders for disposal of sewage sludge on farmland. The efforts were successful in precluding the use of the general order for projects in the Delta and imposing more stringent safeguards on uses of the general order within the upstream watershed of the Delta.

Agricultural Drainage

The Agency participates on the steering committee for the San Joaquin County and Delta Water Quality Coalition which is facilitating compliance with the California Regional Water Quality Control Board resolutions regulating drainage from irrigated lands including managed wetlands and nurseries. Increasing regulation of discharges is forthcoming and greater Agency effort will be required.

RESOLUTION NO. 2005-158

A RESOLUTION OF THE LODI CITY COUNCIL AUTHORIZING THE CITY MANAGER
TO SUBMIT "NO" VOTE ON PROPERTY ASSESSMENT BALLOT FOR CITY
PROPERTY LOCATED WITHIN THE CENTRAL DELTA WATER AGENCY DISTRICT

WHEREAS, the Board of Directors of the Central Valley Water Agency will hold a hearing on Tuesday, August 9, 2005, at 9:30 a.m., at 235 East Weber Avenue, Stockton, California, for the purpose of considering protests, tabulating assessment ballots, and otherwise considering adoption of a new maximum assessment rate for future years and the assessment rate for fiscal year 2005-06; and

WHEREAS, the current maximum annual assessment rate is \$5.00 per acre with a minimum of \$1.00 per parcel and generates approximately \$580,000.00 per year; and

WHEREAS, the current proposal would increase the maximum annual assessment rate to \$8.00 per acre with a minimum of \$2.00 per parcel, generating approximately \$922,000.00 per year, which would remain in effect indefinitely; and

WHEREAS, the Board of Directors could set the annual assessment at or below the maximum rate each year; and

WHEREAS, the proposed increased assessment is for the purpose of sustaining and increasing the level of activity to try to protect the water, water rights, drainage, levee, and flood-related interests; and

WHEREAS, the basis of the proposed increased assessment is the acreage of each parcel as shown on the San Joaquin County Assessor's Roll with some adjustments related to land use; and

WHEREAS, the maximum rate of assessment and assessment will not be increased if there is a "majority protest"; however, the existing maximum rate will remain in effect; and

WHEREAS, under Section 4 of Article XIII D of the California Constitution (Proposition 218), a majority protest exists if, upon conclusion of the hearing, ballots submitted in opposition to the assessment exceed the ballots submitted in favor of the assessment; and

WHEREAS, the number of votes will be based on the dollar amount of the proposed assessment using the proposed maximum assessment rate of \$8.00 per acre with a minimum of \$2.00 per parcel as adjusted pursuant to the allocations in the Engineer's Report; and

WHEREAS, staff recommends a no vote because of difficulty associating the proposed assessment with benefit to the citizens of Lodi.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby authorize the City Manager to execute and submit "No" vote on Property Assessment Ballot for City property within the Central Delta Water Agency, on behalf of the City of Lodi.

Dated: August 3, 2005

I hereby certify that Resolution No. 2005-158 was passed and adopted by the City Council of the City of Lodi in a regular meeting held August 3, 2005, by the following vote:

AYES:	COUNCIL MEMBERS – Hansen, Hitchcock, Johnson, Mounce, and Mayor Beckman
NOES:	COUNCIL MEMBERS – None
ABSENT:	COUNCIL MEMBERS – None
ABSTAIN:	COUNCIL MEMBERS – None



SUSAN J. BLACKSTON
City Clerk